<u>REMARKS</u>

Claims 1-16 were examined, and all claims were rejected. With this response claims 1 and 12-16 are amended and new claims 17 and 18 are added. Therefore, claims 1-18 are pending in the application. Claims 1 and 12-16 are amended to place the claims in better form, and the amendments to these claims are not made in order to avoid the cited references. Supporting structure for the functions recited in new claims 17 and 18 can be found at least in claims 12 and 13 as originally filed, as well as page 6, line 33—page 7, line 5.

Applicant respectfully requests reconsideration and withdrawal of the rejections in light of the following remarks.

<u>Response to Arguments</u>

Applicant responds to the Examiner's arguments as follows. Even if Salin et al. (U.S. Patent No. 6,370,390) discloses a notification about an unsuccessful delivery attempt as a SetMessageWatitingData message, and an address of a mobile station as a location of the mobile station, which applicant does not admit Salin does in fact disclose. The claims are still not anticipated by Salin for at least the reasons discussed below. Salin at least fails to disclose or suggest the limitations of the claims discussed below.

<u>Claim Rejections Under § 102</u>

At section 4, on page 4 of the Office Action claims 1, 2, 4, 5 and 8-16 are rejected under 35 U.S.C. § 102(b) as anticipated by Salin. Applicant respectfully submit that Salin fails to disclose or suggest independent claim 1, because Salin does not disclose or suggest a step of subscribing to a presence service for receipt of notifications about the attainability of the mobile terminal device, as recited in claim 1. Furthermore, Salin does not disclose or suggest initiating a delivery attempt of a message to the mobile terminal device in accordance with the result of a step of checking the availability information of the mobile terminal device in the presence service for an acceptance of the message by a mobile terminal device, as recited in claim 1.

Salin discloses a time supervision set in the Home Location Register (HLR). Upon the expiration of a set time the HLR sends notification to short message service centers storing one or more short messages to be transmitted to a subscriber mobile station. See Salin column 8, lines 12-16. As seen in Figures 7 and 8, when the short message service center is notified that a short

message is to be transmitted the short message service center sends the short message to a gateway Mobile Switching Center (MSC), which then in turn requests routing information from the HLR of the subscriber to which the short message to be transmitted is addressed. See Salin column 8, lines 16-21. It is not until the VMSC requests subscriber information from the VLR (i.e. the VLR monitors whether the subscriber has established a connection to the network) that the method disclosed by Salin determines whether the subscriber is reachable, and the message can be delivered. See column 8, lines 54-58; Figure 8. If the subscriber is unreachable the HLR is notified, and another attempt to send the short message will be performed upon the expiration of a set time according to the time supervision. Therefore, in Salin a delivery attempt is initiated every time the set time expires, and the delivery attempt is not based on a subscription to a presence service that provides notifications about the attainability of a mobile terminal device.

In contrast, as recited in claim 1, a presence service is subscribed to that will provide information when the next delivery attempt should be performed based on the availability information of the mobile terminal device. Salin fails to disclose or suggest subscribing to a presence service for receipt of notifications about the <u>attainability</u> of the mobile terminal device. Instead, Salin only discloses determining the reachability of a subscriber mobile station after a short message delivery attempt has been initiated based on the expiration of a set time. Contrary to the assertions of the Office the SetMessageWaitingData sent to the HLR is not the equivalent of subscribing to a presence service, as recited in claim 1. Instead, the SetMessageWaitingDate is merely used in the process of informing the entities involved that an attempt to have the short message transmitted to the subscriber was made. See Salin column 9, lines 1-2. Salin makes no mention or suggestion of subscribing to a presence service, and for this reason alone claim 1 is not anticipated or suggested by Salin.

Furthermore, claim 1 recites initiating a delivery attempt of the message to the mobile terminal device in accordance with the result of a step of checking availability information of the mobile terminal device in the presence service for an acceptance of the message by the mobile terminal device. In contrast, Salin discloses initiating a delivery attempt for a message when the time specified by the time supervision expires, and at this point in the method of Salin it is unknown whether the mobile station is reachable and able to accept the short message. See Salin column 9, lines 6-9 (the starting of short message transmissions depends on the expiry of time supervision). In contrast, claim 1 recites a method in which the availability information of the mobile terminal

device is checked to see whether the mobile terminal device is able to accept the message before a delivery attempt of the message is initiated. Therefore, Salin fails to disclose all the limitations recited in claim 1. As such, applicant respectfully requests withdrawal of the rejection to claim 1.

Independent claim 12 contains limitations similar to those recited in independent claim 1. Therefore, for at least the reasons discussed above in relation to claim 1, claim 12 is not disclosed or suggested by Salin. As such, applicant respectfully requests withdrawal of the rejection to claim 12.

Dependent claims 2, 4-5, 8-11 and 13-16 depend directly or indirectly from an independent claim, and are not disclosed or suggested by Salin at least in view of their dependencies. Therefore, applicant respectfully request withdrawal of the rejections to the dependent claims.

Claim Rejections Under § 103

At section 8, on page 13 of the Office Action claims 3, 6 and 7 are rejected under 35 U.S.C. § 103(a) as unpatentable over Salin in view of Rooke et al. (U.S. Patent No. 6,678,361). Claims 3, 6 and 7 ultimately depend from independent claim 1, and are patentable over the cited references at least in view of their dependencies.

Furthermore, unless informed otherwise, applicant assumes that Rooke is applied under 102(b)/103 not based on U.S. Patent No. 6,678,361 or U.S. Appl. Publication No. 2002/0044634, which were both published less than one year prior to the current application's PCT application filing data, but on the international publication WO/2000/064110 of application No. PCT/EP99/02763. Therefore, it is unnecessary to show common ownership or identify the inventorship for each claim.

New Claims 17 and 18

New independent claim 17 contains limitations similar to those recited in independent claim 12, and is novel and nonobvious in view of the cited references for at least the reasons discussed above in relation to claim 12.

New claim 18 depends from new independent claim 17 and is novel and nonobvious in view of the cited references at least due to its dependency.

Conclusion

The rejections of the Office Action having been obviated by amendment or shown to be inapplicable, withdrawal thereof is requested, and passage to issue of the present application is earnestly solicited. The undersigned believes that no additional fee is required to submit this response, but hereby authorizes the Commission to charge deposit account 23-0442 for any fee deficiency required to submit this response.

Respectfully submitted,

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